

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Atty SCS-1498-125

Dkt.

C# M#

GARDNER

TC/A.U. 2878

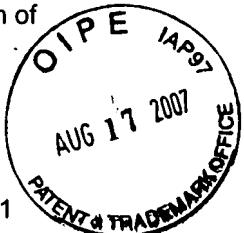
Serial No. 09/806,007

Examiner: Q. Le

Filed: March 26, 2001

Date: August 17, 2007

Title: IMPROVED PHOTOMULTIPLIER TUBE CIRCUIT



Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Sir:

RESPONSE/AMENDMENT/LETTER

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

 Correspondence Address Indication Form Attached.

Fees are attached as calculated below:

Total effective claims after amendment 9 minus highest number
 previously paid for 20 (at least 20) = 0 x \$50.00 \$0.00 (1202)/\$0.00 (2202) \$

Independent claims after amendment 3 minus highest number
 previously paid for 3 (at least 3) = 0 x \$200.00 \$0.00 (1201)/\$0.00 (2201) \$

If proper multiple dependent claims now added for first time, (ignore improper); add

\$360.00 (1203)/\$180.00 (2203) \$

Petition is hereby made to extend the current due date so as to cover the filing date of this
 paper and attachment(s)

One Month Extension \$120.00 (1251)/\$60.00 (2251)

Two Month Extensions \$450.00 (1252)/\$225.00 (2252)

Three Month Extensions \$1020.00 (1253)/\$510.00 (2253)

Four Month Extensions \$1590.00 (1254)/\$795.00 (2254)

Five Month Extensions \$2160.00 (1255)/\$1080.00 (2255) \$

Terminal disclaimer enclosed, add \$130.00 (1814)/ \$65.00 (2814) \$

Applicant claims "small entity" status. Statement filed herewith

Rule 56 Information Disclosure Statement Filing Fee \$180.00 (1806) \$ 0.00

Assignment Recording Fee \$40.00 (8021) \$ 0.00

Other: \$ 0.00

TOTAL FEE \$ 0.00

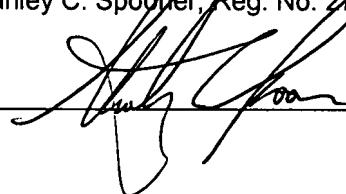
 CREDIT CARD PAYMENT FORM ATTACHED.

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

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NIXON & VANDERHYE P.C.

By Atty: Stanley C. Spooner, Reg. No. 27393

Signature: 



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

GARDNER Atty. Ref.: 1498-125; Confirmation No. 1309

Appl. No. 09/806,007 TC/A.U. 2878

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For: IMPROVED PHOTOMULTIPLIER TUBE CIRCUIT

* * * * *

August 17, 2007

Commissioner for Patents
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Alexandria, VA 22313-1450

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

This is responsive to the Restriction Requirement mailed July 19, 2007 (Paper No. 20070709), the date of response to which is August 19, 2007.

The Examiner's acquiescence in the fact that the previous restriction requirement applied the wrong standard of law with respect to PCT National Phase applications is very much appreciated. However, the Examiner's new restriction requirement still does not follow the correct standard of law. The Examiner states that "restriction is required under U.S.C. 121 and 372." As noted before, restriction under 35 USC §121 is not appropriate and the fact that the Examiner recites this statutory section on page 2 is believed to be an admission that the Examiner is still applying this section.

Additionally, the Examiner does not appear to have followed the requirements of the Manual of Patent Examining Procedure (MPEP) Section 1893.03(d) "unity of invention" which

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mandates that, when making a lack of unity of invention requirement the examiner must (1) list the different groups of claims and (2) explain why each group lacks unity with each other group(i.e., why there is no single general inventive concept) specifically describing the unique special technical feature in each group.

Applicant note that independent claim 1 in Group I (claims 1-7), as well as independent claims 8 and 9 in Group II, all contain the similar combination of features which comprises the inventive concept. Each of the claims references “a plurality of dynodes,” each involves “charging” the dynodes, each involves “switching” on and off the charging means and each involves “sampling” the voltage of at least one dynode. How the Examiner concludes that the apparatus in Figure 1 is a different inventive concept from the methods of independent claims 8 and 9 is not seen. It is the combination of technical features or method steps which is the single general inventive concept and Applicant strongly traverses the Examiner’s contention otherwise.

Accordingly, Applicant respectfully traverses the Examiner’s continued restriction requirement and requests the Examiner to provide a detailed explanation of his basis allegedly listing the different groups of claims and his explanation of why each group lacks unity with each other group, all as required by the MPEP section quoted above.

Moreover, it is noted that the present application was filed in March of 2001 and that as of this response date, no Official Action on the merits has as yet been received. This application has been pending for more than 6 years and Applicant is entitled to at least an action on the merits.

Accordingly, Applicant respectfully traverses the restriction requirement, but in accordance with the Examiner’s requirement, elects Group I, claims 1-7, but this election is made with strenuous traverse for the reasons noted above.

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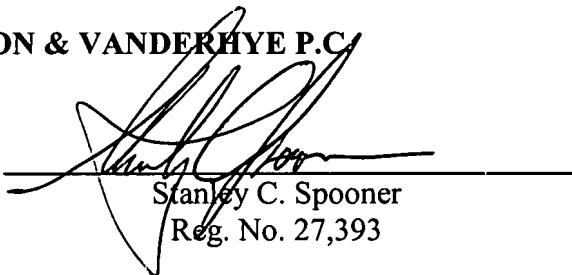
**Renewed request for signed PTO form indicating consideration of
prior art submitted with IDS on May 31, 2001**

Applicant noted in the previous restriction response that Applicant has not received any signed and dated PTO Form 1449 indicating the Examiner's consideration of the prior art submitted by Applicant. It is again respectfully requested that a signed copy of the submitted PTO Form 1449 be returned to the Applicant.

Having responded to all objections and rejections set out in the outstanding Official Action, it is submitted that claims 1-9 are in condition for allowance and notice to that effect is respectfully requested. In the event the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, he is respectfully requested to contact Applicant's undersigned representative.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: 

Stanley C. Spooner
Reg. No. 27,393

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